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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,670	11/10/2003	Satoshi Mizutani	20050/0200468-US0	4676
7278	7590	02/02/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			GIBSON, KESHIA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20040126

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary	Application No. 10/705,670	Applicant(s) MIZUTANI ET AL.	
	Examiner Keshia Gibson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-15 is/are rejected.
- 7) ☐ Claim(s) 8-10 and 16-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/6/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. Claim 16 objected to because of the following informalities: it is suggested that "wherein the flap portions... is temporarily fixed" be changed to "wherein the flap portions...are temporarily fixed." Appropriate correction is required.
3. Claim 18 objected to because of the following informalities: the use of the term "rolled" is objected to. For purposes of this office action, the term "rolled" as been interpreted to mean "folded". If this was the meaning intended by applicant, it is subjected that the terminology been changed to reflect such meaning. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3761

5. Claims 1-2, 6, 12-15 rejected under 35 U.S.C. 102(b) as being anticipated by Osborn, III et al. (US 5,885,265).

In regard to Claim 1, Osborn, III et al. disclose an interlabial pad having an absorbent body **32** and a pair of flaps **F** at each side of the interlabial pad (identified in the mark up of Osborn, III et al.'s Fig. B below; column 14, lines 22-45). The flaps may be provided with an adhesive portion on the skin-contacting surface (column 5, lines 39-41; Figure 1; column 15, lines 44-59).

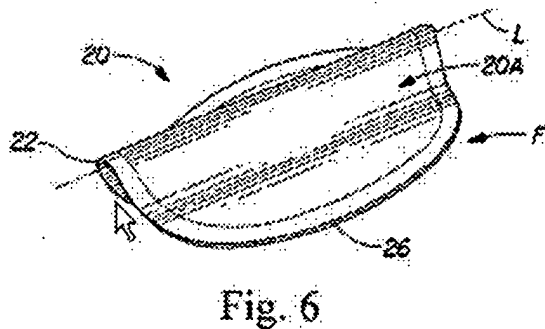


Fig. A: Original Figure 6 from prior art.

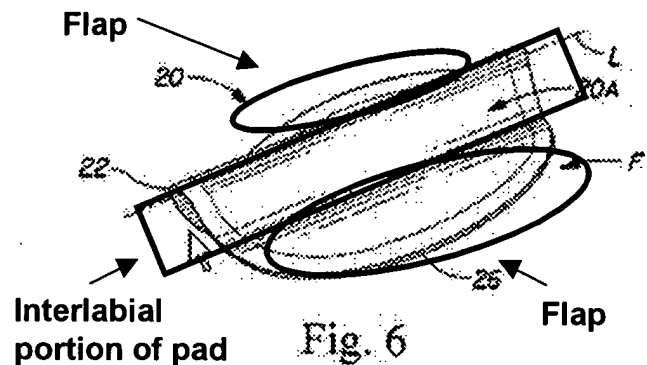


Fig. B: Examiner's mark up of analogous elements in prior art.

In regard to Claim 2, as seen in Fig. B above, the pair of flaps is provided at part or almost all parts of each side edge of both sides of the interlabial pad.

In regard to Claim 6, the interlabial pad comprises a water-permeable surface on the body side sheet **28** (column 11, lines 48-51; Figure 1) and a water-impermeable back side sheet **30** (column 8, lines 32-38; Figure 1). The body side sheet and the back side sheet have length and width dimensions greater than that of the absorbent core and are connected to each other (column 15, lines 60- column 16, line 44).

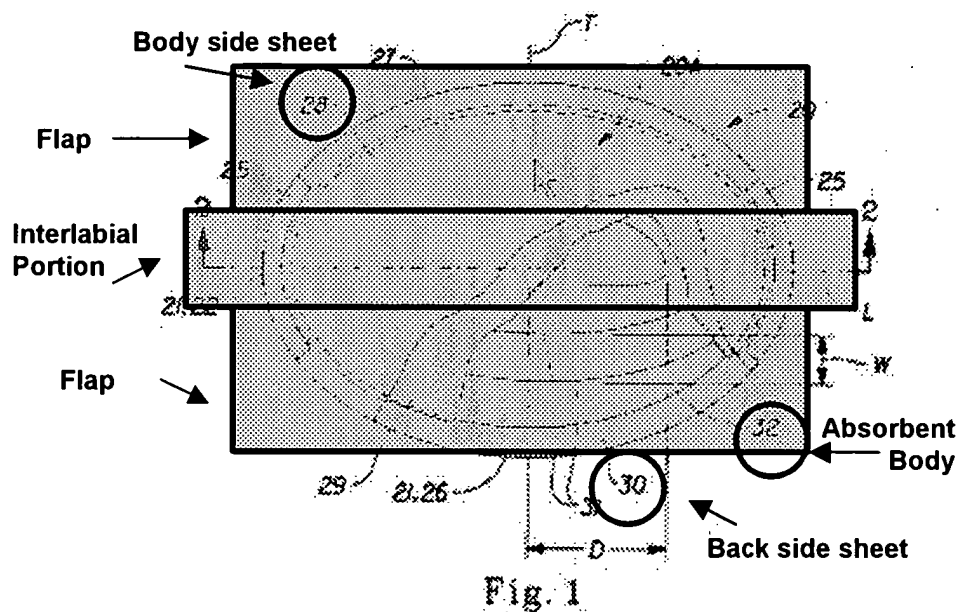


Fig. C: Examiner's identification of flap and interlabial portions in relation to Fig. 1 of the prior art.

Thus, as can be seen in Figure C above, the flap portions are composed of equally extended parts of both the body side sheet and the back side sheet.

In regard to Claim 12, Osborn, III et al. disclose a longitudinal ridge along the centerline of the interlabial pad that forms the interlabial absorbent structure, thus the interlabial pad comprises a long convex area extending in a longitudinal direction on the body side sheet (Figure 6; column 14, lines 22-45).

In regard to Claim 13, Osborn, III et al. do not disclose that the pad is used with a sanitary pad. However, it has been held that a recitation of the manner in which a claimed invention is intended to be employed does not differentiate the claimed invention from prior art satisfying the claimed structural limitations.

In regard to Claims 14 and 15, Osborn et al. disclose that the interlabial pad is directed toward catamenial devices, incontinence pads, or the like (column 1, lines 10-15).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III et al.

In regard to Claim 11, Osborn et al. disclose the claimed invention except for the adhesive portion having a separation strength of 0.3 to 2.0 N and a shear strength of 0.5 to 15.0 N. However, Osborn et al. do teach an adhesive strong enough to adhere to the wearer's skin (column 15, lines 43-59). It would have been obvious to one of ordinary skill in the art to provide the adhesive portion having a separation strength of 0.3 to 2.0 N and a shear strength of 0.5 to 15.0 N, since it has been held that where the general condition of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

8. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III et al. in view of Hasegawa (WO 98/25561).

Art Unit: 3761

In regard to Claim 3, Osborn, III et al. disclose the claimed invention except for the interlabial pad comprising another pair of flap portions at each side edge of both sides. Hasegawa discloses an absorbent pad **20** having two pair of adhesive side flaps **47**. Hasegawa teaches that the additional pair of side flaps **47** serves to prevent soiling of the back region of the wearer's undergarment. Thus, it would have been obvious to one of ordinary skill in the art of absorbent sanitary articles to modify Osborn, III et al. by adding an additional pair of flaps as taught by Hasegawa since doing so would prevent soiling of the rear region of the wearer's undergarments.

In regard to Claim 4, Osborn, III et al. disclose the claimed invention except for the pair of flaps being at a position biased towards either end portion in a longitudinal direction of the interlabial pad. Hasegawa discloses an absorbent pad **20** having two pair of adhesive side flaps **47**. Hasegawa teaches placing the a pair of flaps **47** at the back of the pad **20** in order to cover the back region of the wearer's undergarment, thereby preventing the soiling of the back region of the wearer's undergarment (page 3, lines 24-30). Thus, it would have been obvious to one of ordinary skill in the art of sanitary napkins to modify Hasegawa by placing a second pair of flaps positioned biased towards either end portion in a longitudinal direction since doing so would provide additional coverage of regions of the wearer's undergarments to prevent soiling.

In regard to Claim 5, Osborn, III et al. disclose the claimed invention except for partially extensible flap portions. Again, Hasegawa discloses an absorbent pad **20** having two pair of adhesive side flaps **24**. Hasegawa teaches extensible flaps to relieve the stresses of folding (bending) them (page 10, lines 11-17). Thus, it would have been

Art Unit: 3761

obvious to one skilled in the art of sanitary pads to modify Osborn, III et al. to have partially extensible flaps since doing so would relieve the stresses caused by bending the flaps.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III et al. in view of Wierlacher (WO 99/01093).

In regard to Claim 7, Osborn, III et al. disclose the claimed invention except for the pad having a minisheet piece which forms a finger insertion opening on a surface opposing the body side sheet of the pad. Wierlacher teaches a pad comprising a minisheet piece **58** that forms a finger breadth opening **66** and a finger insertion space continuing therefrom **64**. The minisheet piece **58** is attached to the garment-facing surface **23**, which is opposite the body side sheet **22** (Figures 5b and 7; page 18, line 30- page 21, line 6).

Allowable Subject Matter

10. Claims 8-10 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to Claims 8-10, the prior art fails to teach or fairly suggest a minisheet piece extending laterally beyond the side edges of the pad and the pair of flaps being formed from the protruding edges of the minisheet piece.

Art Unit: 3761

In regard to Claims 16-18, the prior art fails to teach or fairly suggest a wrapping body for a sanitary pad wherein the flaps are detachably fixed to the inner face of the wrapping body.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lenker et al (US 6,461,340), Glasgow et al. (US 2004/0002686 A1), Markowiecki (US 6,350,258 B1), and Osborn, III et al. (WO 99/26575 A1).

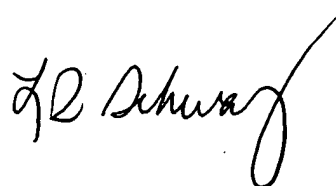
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out of the office every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kg 12/26/05



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